

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

No. CR 08-1982 JB

ERIC MULTINE,

Defendant.

**MEMORANDUM OPINION AND ORDER**

**THIS MATTER** comes before the Court on Defendant Eric Multine's Sentencing Memorandum, filed July 20, 2010 (Doc. 107). The Court held a sentencing hearing on July 30, 2010. The primary issue is whether the Court should accept the plea agreement between Plaintiff United States of America and Defendant Eric Multine, which provides for a sentence of 60-months imprisonment. Because the requested sentence is within the applicable guideline range and fairly reflects the factors in 18 U.S.C. § 3553(a), the Court will grant Multine's request to sentence him to 60-months incarceration.

On May 1, 2010, Multine pled guilty to an information charging him with possession of a firearm in, or relation to, a crime of violence, in violation of 18 U.S.C. § 924(c)(1)(A)(I). Section 924(c) of Title 18 of the United States Code provides for a five-year -- i.e., 60-month -- mandatory-minimum sentence. See 18 U.S.C. § 924(c)(1)(A)(I). Pursuant to United States Sentencing Guideline ("U.S.S.G.") § 2K2.4, if a defendant is convicted of violating 18 U.S.C. § 924(c), "the guideline sentence is the minimum term of imprisonment required by statute." U.S.S.G. § 2K2.1(b). The Application Notes to § 2K2.4 state:

Section 924(c) and 929(a) of title 18, United States Code, provide mandatory minimum terms of imprisonment (e.g., not less than five years). . . . [I]n a case in which the defendant is convicted under 18 U.S.C. § 924(c) or § 929(a), the guideline sentence is the minimum term required by the relevant statute.

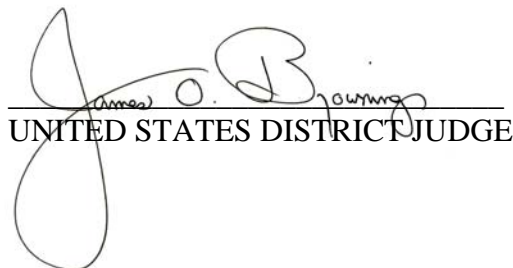
U.S.S.G. § 2K2.4 app. n.2(A). Accordingly, in this case the guideline sentence is the minimum term of imprisonment that 18 U.S.C. § 924(c) requires -- 60 months.

In his sentencing memorandum, Multine states that he takes responsibility for his actions and asks the Court to accept the plea agreement and sentence him to 60-months imprisonment. See Sentencing Memorandum at 4. The United States represents that it has no objection to the Presentence Investigation Report (“PSR”), which the United States Probation Office disclosed on July 7, 2010. See United States’ Response to Defendant’s Sentencing Memorandum at 1, filed July 23, 2010 (Doc. 108)(“Response”). The United States represents that, as part of the plea agreement, it has agreed to dismiss the indictment at the time of sentencing and recommend a sentence of 60-months imprisonment. See Response at 1; Plea Agreement at 6, filed April 21, 2010 (Doc. 104). The United States also asks the Court to accept the plea agreement. See Response at 1-2.

The Court accepts the plea agreement in this case. The Court has carefully reviewed the findings in the PSR, and there being no objections, the Court adopts those findings as its own. The Court has also reviewed the guideline application of U.S.S.G. § 2K2.1(b) in the PSR, and there being no objection to that application, the Court finds that the application is appropriate and accepts that application as its own as well. The Court has also considered the factors set forth in 18 U.S.C. § 3553(a)(1) through (7). Pursuant to U.S.S.G. § 2K2.1 and 18 U.S.C. § 924(c)(1)(A)(I), the guideline imprisonment range is 60 months. The Court agrees with the parties that a sentence of 60 months reflects the seriousness of the offense, promotes respect for the law, provides just

punishment, affords adequate deterrence, protects the public, and otherwise fully and effectively reflects each of the factors embodied in 18 U.S.C. § 3553(a). The Court also believes that this sentence is sufficient without being greater than is necessary to comply with the purposes of punishment set forth in the Sentencing Reform Act. The Court will thus sentence Multine to a term of 60 months in the custody of the Bureau of Prisons.

**IT IS ORDERED** that the request in the Sentencing Memorandum is granted, and Defendant Eric Multine is sentenced to 60 months in the custody of the Bureau of Prisons.



UNITED STATES DISTRICT JUDGE

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